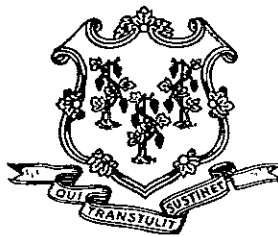


SENATOR MARTIN M. LOONEY
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Testimony of Senate Majority Leader Martin Looney before the Judiciary Committee

In Support of Proposed Senate Bill 462: An Act Concerning Civil Restraining and Protective Orders

March 17, 2014

Senator Coleman, Representative Fox, and members of the committee, thank you for this opportunity to testify in support of Proposed Senate Bill 462, ***AN ACT CONCERNING CIVIL RESTRAINING AND PROTECTIVE ORDERS***. This bill is an acutely needed reform to our civil restraining order law which, as it currently stands, severely lags behind the majority of other states regarding the specified relief and protections that can be granted to the victims of abuse.

In particular, our civil restraining order statute, section 46b-15, is inadequate and perhaps even antiquated in delineating potential financial support for successful applicants. Indeed, our law is unacceptably silent on this issue, in contrast to the vast majority of such laws throughout the nation. The civil protective and restraining order laws of at least 35 other states explicitly authorize courts to order temporary spousal support. Such laws in at least the same number of states explicitly authorize courts to order temporary child support. At least 25 other states explicitly authorize their courts to order that the victim be given temporary, exclusive possession of specified personal property, including automobiles, and to enjoin the respondent from destroying or transferring specified personal property. At least 25 other states even expressly authorize their courts to order restitution as part of the restraining order process, for out of pocket expenses such as medical bills and lost wages directly resulting from the abuse.

Providing temporary financial support to victims of domestic abuse through the civil restraining order process is part of the ordinary course of business in the majority of court systems in our nation. It must become so in Connecticut's court system, without delay. Our victims of domestic violence deserve no less.

The need for financial relief is compelling. It is commonly understood that "financial abuse" is experienced in many abusive domestic relationships. The U.S. Department of Justice defines "financial abuse" as: "making or attempting to make an individual financially dependent by maintaining total control over financial resources, withholding one's access to money, or forbidding one's attendance at school or employment."¹ It is obvious that, if a victim of physical abuse in the home is also subject to such financial abuse, the question of whether or not to

¹ "What is Domestic Violence", U.S. Department of Justice, Office of Violence Against Women.

approach the court system for help doesn't only require the courage to finally stand up to the abuser; it also requires the courage to risk being utterly without financial support, and quite possibly being homeless. This reality is why the provision of financial relief in restraining orders is so critical.

The desperate choices between physical safety and economic survival facing so many victims of abuse here in Connecticut was poignantly expressed by Connecticut's Domestic Violence Crisis Center (DVCC), in testimony before our legislature last year in support of similar financial order language. DVCC is a services provider for victims of domestic violence based in Stamford which states that it works with over 3400 Connecticut residents each year who are victims of domestic violence. Last year, DVCC testified that:

[o]ur experience working with victims has demonstrated time and time again that economic survival is critical to the ability to safely extricate a victim and her children from an abusive relationship. In fact, independent studies have shown that access to economic resources is the best predictor of whether or not the victim will permanently separate from her abuser. Under current Connecticut law, many victims find themselves forced to make a choice between staying in an abusive relationship or leaving and facing extreme poverty and homelessness. DVCC works with victims every day who, given no other considerations, would go forward with filing for an order which removes the abuser from the home and restricts all contact in an effort to secure their physical safety. However, 98% of abusive relationships involve financial abuse, and victims understand quite clearly the harsh reality that one of the most commonly used retaliation tactics is for the abuser to cause financial distress. As a result, victims are staying in abusive relationships when they otherwise would leave. (Emphasis provided).²

Based on its experience over the years with thousands of Connecticut domestic violence victims, DVCC went on to explain very clearly why, in many cases, financial remedies must be a part of the restraining order process and not left to other, more drawn out judicial proceedings:

[t]he days following a victim's decision to leave are often the most difficult. The victim is contending not only with the emotional trauma of ending the abusive relationship, but also with ensuring she has structured a viable safety net for herself and her children. The goal of a restraining order is to assist a victim in securing that safety net. Safety is undeniably dependent on economic survival. Referring the victim to another process outside of the RO causes unnecessary delay and fails to meet immediate safety needs... The ability to obtain economic relief during the restraining order process provides a victim breathing room to keep her and her children safe while she gets... more long term petitions started. (Emphasis provided).³

I agree with those statements, and believe they are why the vast majority of civil restraining and protective order laws in America explicitly authorize courts to grant temporary financial relief.

² "Support for Raised Bill No. 6702 (AAC Domestic Violence & Sexual Assault), Sec. 1: Economic Protections for Victims of Domestic Violence in Restraining Orders", DVCC (April 15, 2013).

³ Ibid

As noted, these financial relief authorizations in other states are not limited to child support. They also include financial support for the victim, orders specifically requiring the respondent to continue making rent, mortgage, utility and insurance premium payments, orders enjoining the respondent from disposing, encumbering or transferring specified personal property (such as, for example, draining a joint bank account) and orders granting the victim temporary possession of specified personal property, such as an automobile. I believe Connecticut's law must contain similar provisions, and explicitly authorize our courts to grant any of these categories of temporary financial relief to a successful restraining order applicant who is owed a legal duty of support from the respondent.

Senate Bill 462 provides authorization for each of these different types of financial orders. It also specifies that most of such financial relief cannot be granted as part of an ex parte order, but instead as part of the permanent restraining order after a hearing. Much of such relief is also limited to a 120 day period, and is conditioned both on the respondent having a legal duty of support and the ability to pay. Even with these conditions, I strongly believe that Senate Bill 462 will help provide victims with the financial ability to achieve the "breathing room" they need to keep themselves and any children they may have safe, while beginning other, longer term legal proceedings if they so choose that can provide for permanent financial support going forward.

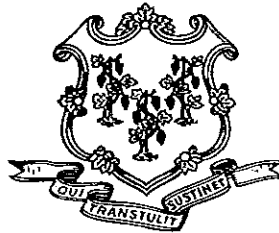
In addition to its financial order provisions, Senate Bill 462 calls for a much needed public study of the current process of serving temporary restraining orders (TROs), and recommendations for how the legislature can reform and improve the process.

Finally, Senate Bill 462 significantly strengthens the criminal penalties for violations of both civil restraining and criminal protective orders that involve either violence or threatening. Such violations would become Class C felonies, in addition to the separate criminal penalties existing under law for commission of the acts themselves.

I look forward to working with the chairs and members of this committee on this legislation that is so critical to the safety of domestic violence victims throughout our state. Thank you.

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